

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARIE ENCAR ARNOLD,

Plaintiff(s),

v.

UNITED STATES OF AMERICA, et al.,

Defendant(s).

Case No. 2:24-cv-01856-____-NJK¹

REPORT AND RECOMMENDATION

District courts have the authority to dismiss cases *sua sponte* without notice when the plaintiff “cannot possibly win relief.” *Sparling v. Hoffman Constr. Co.*, 864 F.2d 635, 638 (9th Cir. 1988). A complaint should be dismissed for failure to state a claim upon which relief may be granted “if it appears beyond a doubt that the plaintiff can prove no set of facts in support of his claims that would entitle him to relief.” *Buckey v. Los Angeles*, 968 F.2d 791, 794 (9th Cir. 1992). A complaint may be dismissed as frivolous if it is premised on a nonexistent legal interest or delusional factual scenario. *Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989). Moreover, “a finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them.” *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). When a court dismisses a complaint, the plaintiff should be given leave to amend with directions as to curing its deficiencies, unless it is clear from the face of the complaint that the deficiencies could not be cured by amendment. *See Cato v. United States*, 70 F.3d 1103, 1106 (9th Cir. 1995). “When a case may

¹ This case was referred to the undersigned magistrate judge pursuant to General Order 2023-11. *See* Docket No. 3. At this stage, Defendants have not appeared, so the undersigned lacks the authority to order dispositive relief. *See* General Order 2023-11 at 3 (“All matters that arise in a case before the deadline by which consent must be declined are deemed referred to the Magistrate Judge under 28 U.S.C. § 636(b)”). Accordingly, a district judge must be assigned to the case to address this report and recommendation.

1 be classified as frivolous or malicious, there is, by definition, no merit to the underlying action and
2 so no reason to grant leave to amend.” *Lopez v. Smith*, 203 F.3d 1122, 1127 n.8 (9th Cir. 2000)
3 (en banc).

4 Plaintiff’s complaint is difficult to follow. The factual allegations indicate that she is a
5 law-abiding person, but has been subject to government mistreatment. The complaint alleges that,
6 *inter alia*, there is “no reason to attack memory chips of uploads of pain and suffering surgical
7 medical procedures,” Docket No. 1-1 at 5, that the government “intentionally committed frivolous
8 upload of fake bad smells,” *id.* and that the “‘One voice programs’ illegally feed words into our
9 mouths. Mind abductions and combining you with people ‘you don’t get along with,’” *id.* at 6.
10 Plaintiff seeks damages in the amount of \$2,700,000. *See id.* at 12. Plaintiff also seeks relief in
11 the form of “[s]eparat[ion] of minds” and abolition of “anti-race social group and anti-gender, anti-
12 jealous.” *Id.* In light of the delusional factual scenario and nonexistent legal interest at issue,
13 Plaintiff’s complaint is appropriately dismissed.

14 Accordingly, the undersigned **RECOMMENDS** that this case be **DISMISSED** with
15 prejudice. The Clerk’s Office is **INSTRUCTED** to remove this case from the consent program
16 and to assign a United States District Judge to the case.

17 Dated: December 10, 2024

18
19 
Nancy J. Koppe
United States Magistrate Judge

20
21 **NOTICE**

22 This report and recommendation is submitted to the United States District Judge assigned
23 to this case pursuant to 28 U.S.C. § 636(b)(1). A party who objects to this report and
24 recommendation must file a written objection supported by points and authorities within fourteen
25 days of being served with this report and recommendation. Local Rule IB 3-2(a). Failure to file
26 a timely objection may waive the right to appeal the district court’s order. *Martinez v. Ylst*, 951
27 F.2d 1153, 1157 (9th Cir. 1991).
28